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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,567	05/12/2005	Jean-Francois Biegun	CAC.P0046	6534

7590 01/28/2011
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Akron, OH 44308-1456

EXAMINER

WOODALL, NICHOLAS W

ART UNIT	PAPER NUMBER
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3775

MAIL DATE	DELIVERY MODE
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01/28/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
After the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/534,567	BIEGUN ET AL.	
Examiner	Art Unit	
Nicholas Woodall	3775	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 28 October 2010 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The declarations filed on October 28th, 2010 and October 29th, 2010 have been reviewed and are the same declaration. The declarations filed on October 28th, 2010 are not entered since both are missing the signature. The declaration filed on October 29th, 2010 will be entered. The declaration does not overcome the rejections of the final office action mailed on June 9th, 2010. The applicant has provided a data sample for a plastic rasp made from a polycarbonate plastic to show that the hardness of the plastic before any radiation treatment is lower than the required hardness to remove bone. However, the applicant did not provide data for all the types of plastics disclosed in the reference such as polyamides, which are disclosed by the applicant to be perfectly suited for bone removing rasps (page 3 lines 7-20 of the current application specification). Therefore, the applicant has not provided enough data to show the disclosure of the Geisser reference as being inoperative.

/Thomas C. Barrett/
Supervisory Patent Examiner, Art Unit 3775

/Nicholas Woodall/
Examiner, Art Unit 3775